

The Honorable James L. Robart

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VIVENDI S.A. and VIVENDI  
HOLDING I CORP., as the Assignee  
of a U.S. Elektrim Bondholder,

Plaintiffs,

vs.

T-MOBILE USA, INC.; T-MOBILE  
DEUTSCHLAND GMBH; T-MOBILE  
INTERNATIONAL AG; DEUTSCHE  
TELEKOM AG; and ZYGMUNT SOLORZ-  
ZAK,

Defendants.

Case No. CV6-1524 JLR

NON-PARTY MARCIN OLECHOWSKI'S  
DECLARATION IN SUPPORT OF MOTION  
TO DISMISS THIRD AMENDED  
COMPLAINT

I, MARCIN OLECHOWSKI, hereby declare as follows:

1. My native language is Polish, however, I do read, write, and speak English. I have personal knowledge of the matters set forth herein, and if called to testify, I could and would competently testify to the matters set forth below.

2. This Declaration is submitted in support of Defendant Zygmunt Solorz-Zak's ("Mr. Solorz") Motion to Dismiss Plaintiffs VIVENDI S.A. ("Vivendi") and VIVENDI HOLDING I CORP.'s ("Vivendi Holding") (collectively, "Plaintiffs") Third Amended Complaint ("Motion to Dismiss") pending in the United States District Court, Western District of Washington at Seattle.

3. I am a citizen of the Republic of Poland. As a doctor of laws, I am a lawyer under Polish law and a partner with Soltysinski Kawecki & Szlezak ("SK&S"), a Polish law firm in

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NON-PARTY MARCIN OLECHOWSKI'S DECLARATION  
IN SUPPORT OF MOTION TO DISMISS THIRD AMENDED  
COMPLAINT - Case No. CV6-1524 JLR

KEESAL, YOUNG & LOGAN  
1301 FIFTH AVENUE, SUITE 1515  
SEATTLE, WA 98101  
(206) 622-3790

1 Warsaw, Poland, that has acted as outside counsel for Elektrim S.A. ("Elektrim"). My residence is  
 2 located in Warsaw, Poland and I work in Poland. I have since Fall 1999 personally acted as counsel to  
 3 Elektrim. In my capacity as counsel to Elektrim I have also met Mr. Solorz who has, since April 2003,  
 4 held the office of Chairman of Elektrim's Supervisory Board.

5 4. I have reviewed Vivendi's Third Amended Complaint against T-Mobile USA, Inc., T-  
 6 Mobile Deutschland GMBC, T-Mobile International AG and Deutsche Telekom AG (collectively  
 7 "DT") and Mr. Solorz which complains of certain matters in regard to Polska Telefonia Cyfrowa sp.  
 8 zo.o ("PTC") and Elektrim Telekomunikacja sp. zo.o ("Telco"). I note that my name is mentioned  
 9 one time in the Third Amended Complaint (at paragraph 54 on page 27) as follows:

10 "On August 24, 2004, Marcin Olechowski on behalf of Elektrim sent two emails  
 11 to Mr. Syed in the United States setting forth more terms of a proposed settlement and  
 12 attaching a draft Guarantee and Indemnity Agreement between Elektrim and Vivendi  
 13 S.A. on one hand and T-Mobile on the other."

14 5. It is my understanding that the Motion to Dismiss need not, and hence does not,  
 15 address the supposed "merits" of Plaintiffs' purported "claims" against the Mr. Solorz or the DT  
 16 defendants. Accordingly, I will not specifically comment on the various allegations in Plaintiffs'  
 17 Third Amended Complaint that I consider to be false and inaccurate, but instead will simply focus on  
 18 the sentence block quoted in Paragraph 4 above, by which sentence Plaintiffs seek (apparently) to  
 19 support their contention that personal jurisdiction over Mr. Solorz exists in the United States District  
 20 Court as a result of my alleged sending of two e-mails to Vivendi's outside counsel based in Paris,  
 21 France – David Syed of Orrick, Herrington & Sutcliffe.

22 6. In my capacity as counsel to Elektrim I have known of Mr. Syed's involvement in  
 23 Elektrim matters since 1999/2000 as outside counsel for Vivendi when he was head of the Paris office  
 24 of a UK law firm Watson, Farley & Williams ("WFW"); subsequently Mr. Syed and the Paris office  
 25 of WFW joined Orrick Herrington & Sutcliffe. Attached hereto as Exhibit A is a true and correct copy  
 26 of Mr. Syed's profile obtained from Orrick, Herrington & Sutcliffe's website  
 27 (<http://www.orrick.com/lawyers/Bio.asp?ID=130971>) which confirms that Mr. Syed is based in  
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1 Orrick, Herrington & Sutcliffe's Paris, France office. I should note that in most European jurisdictions  
 2 local offices of foreign or international law firms are in fact local law firms associated (whether by  
 3 agreement, shareholding or partnership) with a given foreign law firm. I assume this to also be the  
 4 case of Orrick's Paris office. When I dealt with Mr. Syed in 2004, I knew and understood that he was  
 5 acting as outside counsel for Vivendi and that his office was based in Paris, France.

6 7. I have checked SK&S's records and my own personal records, and can confirm the  
 7 following: On August 24, 2004,

8 (a) I was physically present in Warsaw, Poland;

9 (b). to the extent that I was performing legal work related to the disputes between  
 10 and/or among Vivendi, Elektrim and/or DT in regard to Telco and the PTC shares, I was acting  
 11 on behalf of SK&S's client Elektrim, and not on behalf of Mr. Solorz personally;

12 (c) the two e-mails referenced in Paragraph 4 above were addressed to Vivendi's Paris-  
 13 based outside counsel George T. Rigo (of Orrick, Herrington & Sutcliffe's Paris office) and to  
 14 Vivendi's Warsaw-based outside counsel Wojciech Zieliński (of Salans' Warsaw office); Mr.  
 15 Syed was one of several persons cc'd in the emails (all of whom I understood to be located  
 16 either in France or in Poland); when including Mr. Syed on the distribution list I used the  
 17 following e-mail address which I had previously utilized when I sent Mr. Syed e-mails that,  
 18 based on my conversations with him, I understood him to have opened when he was physically  
 19 in Paris, France: dsyed@orrick.com.

20 (d) I have no recollection of knowing where Mr. Syed was physically located when he  
 21 opened my August 24, 2004 e-mails or that he would have been outside of France.

22 8. SK&S's files and business papers are all located in Poland. To my knowledge,  
 23 Elektrim documents relating to the disputes between and/or among Vivendi, Elektrim and/or DT in  
 24 regard to Telco and the PTC shares are located in Poland, except to the extent that copies of certain of  
 25 such documents may have been given to Elektrim's legal representatives in different European  
 26 countries in connection with litigation that has been ongoing in one forum or another since 1999.

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1           9. All of the legal work performed by SK&S pertaining to the disputes between and/or  
2 among Vivendi, Elektrim and/or DT in regard to Telco and the PTC shares related to (1) European  
3 transactions, (2) European business disputes, and (3) European arbitration and court proceedings.  
4 None of that work pertaining to the disputes between and/or among Vivendi, Elektrim and/or DT in  
5 regard to Telco and the PTC shares related to (1) any United States transactions, (2) any United States  
6 business disputes, or (3) any United States arbitrations/court proceedings. The only possible exception  
7 I am aware of is research (performed from time to time by SK&S from Poland for the purposes of the  
8 European arbitration and court proceedings) on the U.S. Securities and Exchanges Commission's  
9 ("SEC") website in order to access the results of an SEC investigation into Vivendi's alleged breaches  
10 of U.S. securities laws. Other than that, I have no knowledge of Elektrim's use of the United States  
11 wires and/or mails in connection with the disputes between and/or among Vivendi, Elektrim and/or  
12 DT in regard to Telco and the PTC shares.

13           10. To my knowledge, Elektrim-related witnesses who could offer relevant testimony  
14 pertaining to the disputes between and/or among Vivendi, Elektrim and/or DT in regard to Telco and  
15 the PTC shares reside in Poland. No such witnesses are in the United States. Although I do not  
16 believe that it would be appropriate for any SK&S attorney to have to testify in any proceeding  
17 pertaining to the disputes between and/or among Vivendi, Elektrim and/or DT in regard to Telco and  
18 the PTC shares in view of, at a minimum, the attorney-client privilege, it would be extremely  
19 inconvenient, disruptive, costly and unfair to SK&S attorneys to have to do so in the United States.  
20 The extreme inconvenience, disruption, cost and unfairness of having Polish attorneys appear in an  
21 action in the United States to testify about matters that they may have worked on in Poland related to  
22 (1) European transactions, (2) European business disputes, and (3) European arbitration and court  
23 proceedings, is especially apparent given the absence of any connection between the United States and

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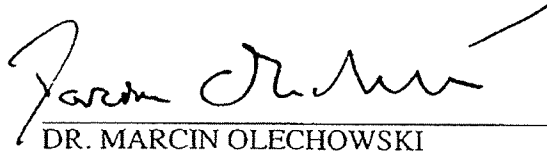
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NON-PARTY MARCIN OLECHOWSKI'S DECLARATION  
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1 the disputes between and/or among Vivendi, Elektrim and/or DT in regard to Telco and the PTC  
2 shares.

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4 I declare under penalty of perjury under the laws of the United States that the foregoing is true  
5 and correct and that this Declaration was executed in Warsaw, Poland this 4<sup>th</sup> day of October 2007.

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DR. MARCIN OLECHOWSKI

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**EXHIBIT A**



## LAWYERS

Lawyer Search

Lawyers by Office

Lawyers by Practice Area



## David Syed

Partner  
European Finance  
Global Finance  
Paris Office

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## Related Practice Areas

- European Finance
- Global Finance
- Structured Finance
- Corporate Transactions

## Education

- LL.B., with honors,  
Université de Reims,  
1985
- LL.M., with honors,  
University of Exeter,  
1987

## Honors

- Recognized as a Best  
Banking Lawyer Under 40  
by the European Counsel
- Recognized as a leading  
global lawyer in  
Chamber's Global Guide  
to the Leading Global  
Lawyers, 2004

## Languages

- English
- French
- Spanish

David Syed, a partner in the Paris office, is the managing partner for Europe and a member of the Executive Committee. As a partner in the European Finance Group, his practice focuses on complex financings and significant restructurings. He also has extensive experience in international contracts, corporate transactions, and cross border transactions.

Before joining the firm, Mr. Syed was a partner with Watson, Farley & Williams from 1992 to 2002. He spent four years as an in-house lawyer in the international contracts department at Renault in Paris, followed by two years as an associate and partner at Baker & McKenzie in Paris.

Mr. Syed's presentations and publications are outlined in the listing below.

## Admitted In

- Paris

## Memberships

- Paris Bar Association

## Publications

- Author, "France: update of the inbound and outbound leasing market," *Asset Finance International*, September 2001
- Author, "Lease to Pickle service contract et droit public français," *Décideurs juridiques et Financiers*, September 2000
- "French PPP legislation: an opportunity for the financing of public investments," *Project Finance Legal Advisers Review* 2004/2005

## Speeches &amp; Programs

- "The French Inbound/Domestic Leasing Market," European Structured Finance Conference, October 2003, Paris
- "New Horizons for European Financiers," U.S. Cross Border Leasing Market New Developments Conference, Orick, May 2003, Paris
- "Challenges and Opportunities in European Telecom QTE Transactions," EFE Conference, May 2003, Paris
- Chairman, Big Ticket Leasing Convention, Structured Finance Conference, March 2003, London
- "French Leasing Market Recent Developments," U.S. Cross Border Leasing and Structured Finance Conference, April 2003, New York
- "State of the Cross-Border Leasing Market in 2002 and Preview of 2003," "US and European Perspective," European Structured Finance Conference, October 2002
- "Le Regain d'Intérêt du Leasing Fiscal Français - Les Nouvelles Tendances des Financements Structurés," Conférence EFE, June 2002
- "French Inbound Leasing Market - Recent Developments," U.S. Cross Border Leasing and Structured Finance Conference, April 2002, New York
- Chairman, Big Ticket Leasing Convention, Structured Finance Conference, March 2002, London
- "Challenges and Opportunities in Financing European Telecom," Structured Finance Institute, October 2001, Paris

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EXHIBIT **A**

<http://www.ornick.com/lawyers/Bio.asp?ID=130971>

10/4/2007